

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, AUGUST 11, 2006
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HI 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Ron Agor

Mr. Tim Johns
Mr. Jerry Edlao

STAFF

Mr. Paul Conry, DOFAW
Ms. Athline Clark, DAR
Mr. Dan Quinn, SP

Ms. Charlene Unoki, Land
Mr. Dan Pohemus, DAR

OTHERS

Mr. Bill Wynhoff, Deputy Attorney General
Ms. Stephanie, F-2 and F-3
Mr. Peter Rue, F-2
Mr. John Plues, E-1

Mr. David Benton, D-3
Ms. Seema Balwani, F-2
Ms. Susan Stanon, E-1
Mr. Anthony Locricchoio, E-1

{Note: language for deletion is [bracketed], new/added is underlined}

Item A-1: Minutes of July 14, 2006

The Board:

Amended the Minutes of July 14, 2006 regarding Item C-3 as follows:

1. Amend Page 2 under "Remarks" to read

". . . After ~~[six]~~ twelve months of study they expect to determine the adequacy of this site for their purposes. If found adequate, an outside appraisal and other required steps to develop a revocable permit or lease would be undertaken by the Division for longer-term use lease of this site."

2. Add the following Recommendation

“3. The Applicant will conduct a one (1) year study to determine the adequacy of the subject site.

“4. The duration of the Special Use Permit will be amended from 6 months to 1 year.”

3. Delete reference to Item C-3 on Page 12

~~“[Issuance of a Special Use Permit to Mid Pacific Communications, Inc. on Lands Encumbered by the Division of Forestry and Wildlife, Kawaihāo District, Kauai, TMK: (4) 4-2-001: por.2.]”~~

Unanimously approved as amended (Johns, Edlao)

Item A-2: Minutes of July 28, 2006

Unanimously approved as submitted (Johns, Agor).

Item D-4 Forfeiture of Revocable Permit No. S-4553, Union Oil Company of California, Permittee, Honolulu, Oahu, TMK (1) 1-5-36:001(por), (1) 1-5-41:001,006(por). (ODLO/Cecil).

Staff recommended to withdraw the item because the back rent was paid on August 9th.

Unanimously approved to withdraw (Johns, Agor)

Item D-5 Amendment to Prior Board Action of December 12, 2003, Agenda Item D-49, Direct Award of Perpetual, Non-Exclusive Easement for Utility Purposes, Honolulu, Oahu, TMK: 1-5-041:06, 22, 130, 334 portions. (ODLO/AI).

Staff recommended to withdraw item and will bring back at a later date.

Unanimously approved as withdrawn (Johns, Agor)

Item D-3: Amend Prior board Action of June 9, 2006, under Agenda Item D-12, for Issuance of Direct Lease to Jeffrey Isao Tsuzuki and Charlotte Chiemi Higa for Private, Noncommercial Pier Purposes, Kaneohe, Oahu, TMK: (1) 4-4-18:80 Seaward (ODLO/AI)

Ms. Charlene Unoki, Land Division, stated that staff would like to amend prior board action from June 9, 2006, item D-12 so the consideration is corrected as a one time

payment to be determined by a staff appraiser based on the Kaneohe Bay Pier's Amnesty Program formula, using the current assessed values. This is due to the fact that the previous piers were issued and assessed back in 2001 and this is new pier therefore it should be based on present assess value.

Mr. David Betton presented testimony on this item. He feels that the piers are used commercially because the homes (along with the piers) are being rented out. He also feels there is a lack of regulation and enforcement and that specific language should be added to the leases that enforce the non-commercial use of the piers. In response to this, Ms. Unoki responded that the Land Division has not received any complaints that warranted an investigation.

Unanimously approved as submitted (Johns, Edlao)

**Item D-1 Amend Prior Board Action of May 27, 1994 (Agenda Item F-3)
Request for Direct Issuance of Perpetual, Non-Exclusive Easement to
Water Commission of the County of Hawaii (WCCOH) for Water
Meter Box Purposes at Keonepoko-Iki, Puna, Hawaii, TMK: (3) 1-5-
09:Por.59 (HDLO/Harry)**

**Item D-2 Amend Prior Board Action of October 12, 1984 (Agenda Item F-3)
Request for Direct Sale of Easements to Robert R. Nakamoto and
Alex N. Okada for Irrigation Waterline Purposes at Puukapu,
Waimea, South Kohala, Hawaii, TMK: (3) 6-4-02:20 (HDLO/Harry)**

**Item D-6 Amend Prior Board Action of July 25, 2003 (Agenda Item D-15), Sale
of Remnant to Clifford K. Helenihi and Channa Helenihi, Halekou-
Wikaluakai Homesteads, Kaneohe, Oahu, TMK: (1) 4-5-077:059
(Portion) (ODLO/Steve L.)**

Unanimously approved as submitted (Johns, Edlao).

**Item F-2: Request for Authorization to issue on Northwestern Hawaiian Islands
(NWHI) Research, Monitoring and Education Permit to Dr. Russel
Brainard of the National Oceanic and Atmospheric Administration
(NOAA), Pacific Islands Fisheries Science Center (PIFSC), for
Activities under the NWHI Reef Assessment and Monitoring Program
(RAMP), Valid from Late August Through Late September 2006.**

Ms. Athlene Clark, Division of Aquatic Resources, stated that there was a significant review process on this permit and lot of input from those issuing the permits and the applicant. The applicant has agreed not to do the bot cam work, which was a concern raised by the other agencies and by the division's research reviewers. The applicant has also agreed not to collect any invertebrate samples, to minimize the collection of algal samples, to provide the division with a specific set of locations for the planning solution

of the monitoring pins, to revise the coral species collections, and to specifically name the areas where they will be going in to repair or replace current water quality monitoring motorway samplers. Staff recommends that this permit go forward with the revisions as listed in the summary of submittal section to allow them to do the monitoring and assessment, to allow them to collect the species as stated in the modified collection tables, to allow the collection of new species of micro and macro algae, and to allow only the collection of diseased or bleached corals with a maximum of ten coral samples per site where there are diseased or impacted coral. There will be a specified size for the sample taken and they must ensure that the breakage does not harm the colonies. The co-trustees have given verbal and written comments and Fish and Wildlife will be issuing a permit with revisions.

When the question of discharge came up, Ms. Clark responded that to her knowledge NOAA ships travel outside the monument every night so they are going 50 miles out to discharge and then coming back in.

Seema Balwani, NOAA Coral Reef Ecosystem Division, presented background on the research they have been doing, what they will be doing, and why it's important. The research and monitoring has been done annually since 2000.

Board member Edlao was concerned with the amount of activity and new activity going on in the Northwestern Hawaiian Islands and felt as though there were going to be a lot of research vessels in the area at once. He is also concerned about how all of this research will benefit the people of Hawaii. In response to this Ms. Balwani said that they are beginning to compile a monitoring report that is easy for people to understand. They are also working with their partners (the State and Bishop Museum) as well as other NOAA divisions to distribute this material. Peter Rue, chief scientist, added that there are often two research teams on the same boat doing different research. So essentially, while there may be two permits, they would both be for the same vessel. Ms. Clark stated that this is not an issue of "more" or "new" it's just the first time it's being brought before the Board and that this particular project is actually a joint effort between all the agencies.

Board Member Johns questioned whether there was a cultural aspect to this permit and Ms. Balwani responded that there is a NOAA culture practitioner who reviews their findings. Ms. Clark added that there will be a cultural requirement as part of the permit and that they will make sure that these applicants participate in a cultural protocol orientation.

Board Member Johns also had a question on compliance and how it would be monitored. Ms. Clark responded that there is a state representative that will be on the ship with them and will report immediately if there is a violation and a cease and desist will be ordered.

Stephanie (also provided written testimony), lead scientist from Environmental Defense, voiced her concerns with the number of samples being collected and the size of the samples. She would like for the Board to reconsider the size and the quantity of coral

being collected. She was also concerned with the discharge from the ship and requested that they keep a log of all the waste dumping.

The Board:

Board member Johns made a motion to accept Staff's recommendations upon amendment.

Amendment to Staff Recommendation:

"That the Board authorize to issue, with stated conditions, a NWHI Research, Monitoring, and Education Permit to Dr. Russell Brainard of the National Oceanic and Atmospheric Administration, for access and certain activities within the designated State waters of the NWHI and to consider the concerns raised by environmental defense before the departure date as well as taking into account the recommendation made by Monument Staff regarding a Native Hawaiian culture orientation before the departure date."

Unanimously approved (Johns, Agor)

Item F-3 Request for Authorization to Issue Two Northwestern Hawaiian Islands (NWHI) Research, Monitoring and Education Permits: 1) One to Dr. Carl Meter of the Hawaii Institute of Marine Biology for the Monitoring and Service of Previously Deployed Devices and Deployment of Additional Acoustic Receivers, and 2) Another to Mr. Paul Murakawa of the Division of Aquatic Resources for Activities under the NWHI Ulua Fish Tagging Project, Both Valid from Late August Through Late September 2006 in State Waters of the NWHI State Marine Refuge.

Staff had a last minute change in which they recommended the permit to be issued only to Dr. Carl Meter. Mr. Paul Murakawa had withdrawn his request. Environmental Defense had some concerns, but it was mostly due to Ulua Tagging. The other permit was just to download the data on the receivers that already exist.

The Board:

Amendment to Staff Recommendation:

"That the Board authorize to issue, with state conditions, [~~two~~] a NWHI Research, Monitoring and Education Permits to [~~1~~] Dr. Carl Meter of the Hawaii Institute of Marine Biology, [~~and 2~~] Paul Murakawa of the Division of Aquatic Resources,] for [~~their~~] access and certain activities within the designated State waters of the NWHI State Marine Refuge."

Unanimously approved as amended (Johns, Edlao)

Item F-1: Request for approval to enter into a facilities use agreement with the natural energy laboratory of Hawaii authority regarding office space for a department staff person assigned to the Hawaiian Islands Humpback Whale National Marine Sanctuary.

Item L-1: Appointment of West Oahu Soil and Water Conservation District Director.

Unanimously approved as submitted (Johns, Edlao)

Item E-1: Request Approval for Issuance of Revocable Permits at Pu'u Ka Pele, Halemanu, and Koke'e Camp Lots, Koke'e and Waimea Canyon State Parks, Waimea, Kaua'i.

Dan Quinn, administrator of State Parks, stated that this submittal is strictly concerning issuing revocable permits for the existing leases that will expire at the end of this year. This will allow the department to negotiate individually with those who would like to be issued a revocable permit to allow them to continue. It would follow the same terms and conditions as the original lease, but would also allow for other terms and conditions as prescribed by the Chair to best serve the interest of the State.

Testimony given by Susan Stanton and John Plues asking for a 90 day notice of termination rather than 30 days due to the amount of personal possessions and conditions of the road during the time when the permits would expire.

Testimony given by Anthony Locricchio said that he understands that there is a need to pass this item and that he has no objection to it.

The Board:

Amendment to Staff Recommendations:

"2. Revocable permit to be generally subject to current lease terms and the department will provide a minimum of 90 days notice of termination or cancellation."

Unanimously approved as amended (Agor, Edlao)

Due to the loss of quorum, Chairperson Young adjourned the meeting at 10:15 a.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

Lauren Yasaka

Approved for submittal:

PETER T. YOUNG
Chairperson
Department of Land and Natural Resources